72-1551 FILE COPY

Supreme Court, U. S.
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MAY 19 1973
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM 1973

No. 72-1551

THEODORE STROM, JR.,

Petitioner.

v.

KATHLEEN JOAN STROM,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Theodore Strom, Jr.
Attorney Pro Se-Petitioner
755 Wheaton Avenue
St. Paul, Mn. 55113
Tel. No. 612-484-3516

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IN THE

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OCTOBER TERM 1973

THEODORE STROM, JR.,

Petitioner,

v.

KATHLEEN JOAN STROM,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

O THE HONORABLE, THE CHIEF JUSTICE AND SSOCIATE JUSTICES OF THE SUPREME COURT OF HE UNITED STATES:

Your petitioner, a citizen of the state of innesota, Theodore Strom Jr., prays that a rit of Certiorari be issued to review the opi- ion and judgment of the United States Court of peals for the Eighth Circuit which were entered February 16, 1973

OPINIONS BELOW

The opinion and/or letter and judgment of the United States District Court for the State of Minnesota, Third Division, entered December 18, 1972 is reproduced in the appendix, and also the entire Transcript in that Court is reproduced in the appendix to this petition.

The opinion and judgment of the United States Court of Appeals for the Eighth Circuit entered February 16, 1973 is reproduced in the appendix to this petition. The opinion is not yet reported.

JURISDICTION

The judgment of the court below (see appendix) was entered on February 16, 1973. A timely petition for rehearing was denied on March 1, 1973 (see appendix). The jurisidiction of this Court is invoked under Title 28 of the United States Code, Section 1254(1), because title, rights, privileges and/or immunities are claimed under the United States Constitution and United States Statutes and have been denied your petitioner.

QUESTIONS PRESENTED FOR REVIEW

A final hearing was held in a Minnesota State Civil Action entitled Kathleen Joan Strom v. Theodore Strom, Jr., District Court File No. 380-731 on the 12th day of October, 1972. The aforementioned hearing was presided over by the Honorable Sidney P. Abramson, Judge of the District Court, Family Court Division, Second Judicial District for the State of Minnesota at the Ramsey County Courthouse at Saint Paul, Minnesota, whereby the trial judge flagrantly abusing his discretionary powers, failed to uphold his oath of office to support the Constitution of the United States, apparently colla-

borated with the respondent's attorney to deprive your petitioner of his rights to a fair and impartial hearing, failed to protect the life and welfare of the minor child of the parties, extorted monies from your petitioner for the benefit of the respondent's attorney George R. Roedler, Jr., and otherwise entered an inequitable judgement against your petitioner in view of the facts presented at said trial and shown in the courts Findings and doing so under the color of state law and under the guise of acting in the public interest and the best interest of the minor child.

QUESTIONS

1. Can a state court deny any litigant within its jurisdiction the immunities and privileges afforded United States Citizens under the United States Constitution?

2. Can a state legislate laws contrary to the privileges and immunities secured under the United States Constitution and congressional law?

3. Are litigants in state domestic civil actions denied the protection of the United States Constitution and/or congressional law?

4. Can a state trial judge manifestly display and act with abusive discretion towards one of the litigants in his courtroom and thereafter render, enter, and unhold an inequitable and unjust judgment against that same person?

5. Are the Equal treatment under the law and due process clauses of the XIVth Amendment to the Constitution of the United States to be upheld in the Minnesota state courts?

6. Can a state court render its judgments based on custom and usage of state law and sex discrimination?

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This instant action arises out of the deprivation of title, rights, privileges and/or immunities claimed and afforded United States citizens under the XIVth Amendment to the Constitution pursuant to Title 28 U.S.C.A. § 1441(b), and 1443 (1) and (1); and Title 42 U.S.C.A. § 1981 through 1989; but denied your petitioner through custom and usage of the following State laws: Minnesota Statute 518.14, Minnesota Statute 518.15, Minnesota Statute 518.16, Minnesota Statute 518.58 and Minnesota Statute 518.59.

STATEMENT OF THE CASE

A final hearing on the disposition of this state civil action was brought on for hearing on October 12, 1972 in the Ramsey County Courthouse at St. Paul, Minnesota in the District Court, Second Judicial District, State of Minnesota. Theodore Strom, Jr., appeared and was represented by himself as Attorney Pro Se. Kathleen Joan Strom appeared and was represented by her counsel George R. Roedler, Jr., apparently a member of the local bar and an attorney at law. Theodore Strom, Jr. had with him a duly appointed Notary Public for the state of Minnesota, Mr. Richard Bullock who was there at Mr. Strom's request to take notes on the proceedings and approved of by the Court.

The case was tried by the Court and commenced at approximately 9:30 a.m.. Mr. Roedler proceeded to call his witnesses on behalf of Mrs. Strom. At one time during the morning Mr. Roedler at-

tempted to have Mr. Bullock, who is a decendant of Lac Courte Oreilles Band of Chippewa American Indian Tribe, ousted from the courtroom alleging that he was coaching Mr. Strom, a layman not learned in the law. Mr. Bullock was appalled by the conduct of the allegations and has indicated that he feels his own Federal Civil rights and Constitutional rights may have been violated in this particular instance. During the course of the trial, Mr. Strom attempted to cross-examine Mrs. Strom's witnesses and present his own case and witnesses. Throughout the entire hearing, Mr. Strom was harassed by Judge Sidney P. Abramson and Mr. Roedler as they attempted to prevent him from bringing out the facts in this case by denying his questions to witnesses, and constantly telling him the trial was going to be over, whether he was done presenting his case or not, by 4:00 p.m., because the Judge had "other things to do". On several occasions the trial judge lost control of his courtroom when Mrs. Strom's witnesses began jeering at Mr. Strom during the trial even to the point of obscenities being yelled by one of her sisters. During the noon recess and afternoon recess, Mr. Strom even caught Mr. Roedler trying to sneak into the judge's chambers without his being invited in; also, as a finale in Mr. Roedler's presentation of his case, he had Mrs. Strom take the stand and verify under oath that it accumulated to some $2,350.00 not including the trial costs in attorney fees.

Mr. Strom later called Mr. Roedler to the stand and questioned him on this topic whereby Mr. Roedler admitted under oath that he had coached Mrs. Strom to make the statements concerning his attorney's fees. The matter of custody of the parties' minor child, Suzanne Kathleen Strom was hotly contested as Mrs. Strom was recovering from a series of brain operations for several brain tumors and she was not

in the family home or physically able to maintain any home for the family during the pendancy of the action.

A decree was entered on October 24, 1972 (see appendix) whereby the court determined both parties be awarded a divorce from each other and that each was fit for custody of the minor child of the part ies. The decree then rendered an unequal judgment by awarding Mrs. Strom alimony, child support, the family car, allowance for attorney's fees, child custody and a lump sum of money for her interest in the homestead of the parties which was awarded to Mr. Strom along with all the debts of the parties. Even more seriously, the court failed to recognize the hazards of allowing Mrs. Strom to drive the minor child of the parties around in a car as she is subject to brain seizures and loses control of her legs, as a result of damage caused by the brain tumors.

The judgment of the court below considering this action just "a domestic relations matter" is a complete evasion of serious constitutional deprivations.

REASONS FOR GRANTING THE WRIT

The petitioner herein purposes to pursue the pursuit of happiness as defined and guaranteed under Constitutional law and truly believes that the final decree for divorce was discriminatory and unequitable in light of the Findings of Fact, and that the awards of custody, child support, alimony, and attorney's fees to respondent, Kathleen Joan Strom must be construed to have been levied as damages assessed against one party and not the other in and for a situation that the court has found both parties equal and to have contributed to equally and that amending the decree to conform with the facts would not be contrary to law but would be proper in this instance as further supported!

IN CONCLUSION

Appellee's motion to dismiss which was granted by the U.S. Court of Appeals for the Eighth Circuit should be reversed and this case should be ordered brought on for trial on its merits because:

1. The Federal Courts clearly have jurisdiction over Federal questions and Federal wrongs.

2. The life and welfare of the minor child is endangered.

3. The Minnesota State courts have consistently through custom, usage and sex discrimination denied a father and child their parent-child relationship without due cause.

4. The Minnesota State courts have consistently failed to uphold the United States Constitution and afford all its citizens the immunitites and protections secured under it.

5. The Minnesota State courts and attorneys that practice therein are furthering the breakdown of the American family unit for their own financial gain.

6. The furtherance of the destruction of the American Family unit by the members of the Minnesota bar association is traitorous in view of its impact on the country's welfare nationally.

7. The importance of the family unit which is the foundation of national stability is being tampered with by the Minnesota legal Profession.

8. More than fifty per cent of this nation's children deserve more than a casual relationship with their fathers.

9. That this case has merits which should be heard out.

10. That the trial judge abused his discretionary powers during this trial.

For the foregoing reasons the Writ should be granted.

Respectfully submitted,

Theodore Strom, Jr.
Petitioner-Attorney Pro Se
755 Wheaton Avenue
St. Paul, Mn. 55113
Tel. No. 612-484-3516

APPENDIX

DECREE

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT

FAMILY COURT DIVISION

Kathleen Joan Strom, Plaintiff, File No. 380731

vs.

Theodore Strom, Jr., Defendant

The above entitled matter came on for trial without a jury before the Honorable Sidney P. Abramson, Judge of the District Court, Family Court Division, on the 12th day of October, 1972, and the Court, after hearing the evidence presented at said trial and being fully advised in the premises did on the 19th day of October, 1972 duly make and file its Findings of Fact, Conclusions of Law and Order for Judgment herein.

Now, pursuant to said Order, upon the motion of George R. Roedler, Jr., attorney for plaintiff,

IT IS HEREBY ADJUDGED AND DECREED AS FOLLOWS:

1. That the bonds of matrimony heretofore existing between the parties, be and hereby, are forever dissolved.

2. Granting plaintiff the permanent care, custody and control of the minor child of the parties, Suzanne Kathleen Strom, Age three (3), born September 10, 1969 subject however to liberal visitation from the defendant including:

a) Every other weekend commencing with the first weekend in November, 1972, beginning at 9 a.m., on Saturday and ending at 7 p.m. on Sunday.

b) Every other (alternative) holiday commencing with Thanksgiving of 1972 on 48 hours notice between the hours of 10 a.m., and 7 p.m., on such holiday.

c) When regular weekend visitation shall fall on a three day weekend, such visitation shall be extended so as to include the additional day.

d) Up to two weeks vacation each year upon 30 days advance written notice.

e) Such other times as the parties may mutually agree upon.

3. That as and for child support of the minor child of the parties, defendant shall pay to plaintiff the sum of $125.00 per month, payable at the rate of $62.50 on the 1st and 15th of each and every month commencing November 1, 1972. Said payment to continue until said minor child obtains the age of 21, is deceased, or otherwise self-supporting or emancipated.

4. Granting to plaintiff additional child support by defendant being required and ordered to maintain all medical and hospitalization insurance he presently has and all life insurance he presently has for the benefit of the minor

child of the parties and until said child attains the age of 21, is deceased, or otherwise self-supporting or emancipated.

5. Granting to plaintiff as and for permanent alimony the sum of $25.00 per month for 36 month commencing November 1, 1972 and on the 1st of each and every month thereafter. Said payments to continue so long as plaintiff is alive and unmarried, but in no event beyond 36 months from November 1, 1972.

6. Granting to defendant plaintiff's entire right, title, interest, and equity in the homestead of the parties located at 755 Wheaton Avenue, Roseville, Minnesota and legally described as follows:

Lot 11, Block 7, Roiss Lakeview, Second Addition.

Plaintiff, upon entry of Judgment and Decree to execute and deliver any and all instruments to vest title in defendant and failing same, then the Judgment and Decree herein shall act as a sufficient instrument to pass title to the defendant.

7. Granting to plaintiff as and for a permanent property settlement herein the sum of $6,000.00 without interest, payable at the rate of at least $100.00 per month commencing January 1, 1973, and monthly thereafter, providing that defendant at his option may pay the entire balance at any time so long as the entire amount due hereunder shall be paid within 60 months of the date for commencement of payment. Said sum shall be paid to plaintiff or her representatives notwithstanding her death or remarriage. Further, said obligation and sum shall constitute a lien upon the real estate at 755 Wheaton Avenue, Roseville, Minnesota, on plaintiff's behalf, and in the event

defendant shall fail to make any payment as heretofore set forth and such default shall continue for a period of at least 30 days, plaintiff at her option may declare the entire balance immediately due and payable and force a sale of the premises in accordance with Chapter 550, Minnesota Statutes. At such time as the total balance is paid, the lien created herewith shall be extinguished and satisfied; provided further, that defendant shall be responsible for all payments on the mortgage on said premises, and shall hold plaintiff harmless from any and all such payment; provided finally, that in the event that the defendant sells the premises at 755 Wheaton Avenue, Roseville, Minnesota, he shall immediately pay to the plaintiff the balance due on the $6,000.00 heretofore set forth.

8. Granting plaintiff all defendant's right, title and interest in and to the 1967 Dodge Dart automobile of the parties and all personal property household goods, furniture and furnishings of the parties now in her possession.

9. Granting to defendant all the personal property and household goods, of the parties now in his possession and on the premises at 755 Wheaton Avenue, Roseville, Minnesota; and further granting him all right, title and interest in the two snowmobiles, sleigh, camper and shares of stock in American Telephone & Telegraph, both preferred and common.

10. That defendant shall be responsible for all obligations and debts of the parties according to their terms existing prior to October 20, 1971.

11. That defendant shall pay to plaintiff at the office of her attorney, the sum of $950.00 to be applied on her attorney's fees, less whatever payments defendant has previously made on

said attorney's fees, which sum shall be paid in full on or before October 15, 1973.

12. That each party and their agents or servants are herewith mutually enjoined and restrained from doing or attempting to do any act injuring, maltreating, vilifying or molesting the other party or the child of the parties.

13. That the foregoing provision of this Judgment and Decree constitutes a full and complete settlement of all questions and issues of alimony, property, attorney's fees, costs, and child support and all other property and financial rights, liabilities and issues existing between the parties and as, except herein set forth, neither party shall have any further claim of any kind or character against the other party arising out of the marital relationship of the parties.

IN TESETIMONY WHEREOF, I have hereunto set my hand this 24 day of October, 1972.

JOSEPH P. LANASA
CLERK OF THE DISTRICT COURT

MARY R. TUCKNER
Deputy Clerk of District Court

Form of foregoing Judgment and Decree approved this 24 day of October, 1972.

/s/ Sidney P. Abramson

SIDNEY P. ABRAMSON
Judge of District Court
Family Court Division

TRANSCRIPT OF PROCEEDINGS

UNITED STATES DISTRICT COURT
THIRD DIVISION

Kathleen Joan Strom,

Plaintiff ,

vs. 3-72-327 Civil

Theodore Strom, Jr.,

Defendant.

The above entitled matter came on for hearing before the Honorable Edward J. Devitt, Chief Judge of the above named Court, at St. Paul, Minnesota, on December 18, 1972.

APPEARANCES:

George R. Roedler, Jr., Esq., Attorney for Plaintiff,

Theodore Strom, Jr., appeared on his own behalf.

The Court: You are Mr. George Roedler?

Mr. Roedler: Yes, Your Honor.

The Court: And you represent the plaintiff?

Mr. Roedler: That's correct, Your Honor.

The Court" And are you Mr. Strom, Jr.?

Mr. Strom: Yes, Your Honor.

The Court: You represent yourself?

Mr. Strom: Yes, Your Honor.

The Court: What is this about, now?

Mr. Roedler: Your Honor, this matter is a divorce matter and got into this court on a demand for removal by the defendant, Mr. Strom, and my motion here this morning is to remand it back to the state court, and I believe that the federal district court has no jurisdiction over a divorce matter and, therefore, it must go back.

In addition, your Honor, I have made a motion to have all or a part of Mr. Strom's bond forfeited for costs and attorney's fees, due to the fact that this matter was before the Court last April on a very similar removal action and at that time, it was remanded back to the state court, and it would appear to me that this second removal of the same matter on the same grounds is frivolous and brought in bad faith.

Thank you, Your Honor.

Mr. Strom: Your Honor, this is not a divorce matter that is brought up here. I'm up here on a violation of due process and equal treatment under the law, and jurisdiction does lie within this Court and this is not a frivolous matter that I am bringing up here.

Since I have asked for removal and they were remanded back, I have gone through final hearing and I have still been denied due process and equal treatment and I have come before this Court on a trial by jury on this matter, rehearing on the matter.

The Court: What state court did you have your divorce in front of?

Mr. Strom: Ramsey County, Second Judicial District.

The Court: What happened there?

Mr. Strom: Well, your Honor, I was harassed throughout the trial by the attorney and trial judge, and there was insufficiency of evidence to support the judgment that was entered against me.

The Court: What happened did the judge grant your wife a divorce?

Mr. Strom: No, it was granted to both of us, but this has really nothing to do with it.

The Court: Do you have children?

Mr. Strom: Yes.

The Court: Does your wife have the children?

Mr. Strom: Yes.

The Court: Was there a dispute about what money you should pay for the support of the children?

Mr. Strom: I really couldn't dispute that, no, I really dispute who should have custody and, furthermore, if the state court found, assuming that their judgment was correct, if both parties were equal in the matter, how can one party be levied more responsibility for the matter?

The Court: So your complaint is you want custody of the children, is that it?

Mr. Strom: Well, I think I have an equal right.

The Court: Did the judge not give you that right to visit them?

Mr. Strom: I do have visitation privileges--

The Court: What is your complaint, what don't you like about what happened in the state court?

Mr. Strom: I went back to state court and attempted to amend the decree, I was denied the same; therefore, I have to appeal it on the violations that were created in the trial.

I was harassed by the judge and --

The Court: Who was the judge?

Mr. Strom: It was Judge Sidney Abramson.

The Court: How long ago was it that you went before him and he didn't do what you asked --

Mr. Strom: On November 22, I believe.

The Court: Of this year?

Mr. Strom: Yes.

The Court: Why didn't you appeal to the Minnesota Supreme Court if you were unhappy about it?

Mr. Strom: Your Honor, I've been in state court possibly fifteen times and i've yet to get judgment out of it.

The Court: Have you tried the Minnesota Supreme Court?

Mr. Strom: I don't believe they'll hear me pro se, Your Honor.

The Court: Well, we hear you here pro se, but I don't think we have any jurisdiction to hear it. You see, appeals from state district court must go to the Minnesota Supreme Court.

Mr. Strom: Technically this isn't an appeal. I want to wipe out the state's order and ask for injunction and demand a new trial in Federal Court. I have a counter motion here, asking for same, and, furthermore, the plaintiff's supporting case law has no bearing on the motion for dismissal.

The Court: You want me to enter an order stopping the state court from enforcing its decree of October 24?

Mr. Strom: Right, This would not affect any child support claims or -- those are continued. As far as disposition of property and the other matters, and of course, the divorce, that is granted by the state, is not a federal matter, no question.

The Court: Have I heard you out, Mr. Strom?

Mr. Strom: Yes, Your Honor.

The Court: Your motion is denied and the matter is remanded to the state court and the clerk is directed to return the file ---

Mr. Roedler: Your Honor, if I might, my other motion on Mr. Strom's bond, is that denied also?

The Court: It is denied.

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings as taken at the time and place indicated.

/s/ Jerilynn Lindquist,
Jerilynn Lindquist, Reporter

JUDGMENT OF U. S. DISTRICT COURT

Letter of Remand

December 18, 1972

Clerk, District Court of Ramsey County
Ramsey County Courthouse
St. Paul, Mn. 55102

In re: Kathleen Joan Strom
vs. No. 3-72 Civil 327
Theodore Strom, Jr. (Your 380731)

Dear Sir,

The above entitled action has been remanded to your Court as of this date. A certified copy of the Clerk's minutes of proceedings covering this action is herewith. There is no written order.

Sincerely,

/s/ Lawrence R. Tapper
LAWRENCE R. TAPPER
Deputy Clerk

cc: George R. Roedler, Jr.
Theodore Strom, Jr.

OPINION AND JUDGMENT

UNITED STATES DISTRICT COURT
FOR THE EIGHTH CIRCUIT

Kathleen Joan Strom,
Appellee,

vs. 73-1037

Theodore Strom, Jr.,
Appellant.

Appeal from the United States District Court for the District of Minnesota.

Before MATTHES, Chief Judge, LAY and ROSS, Circuit Judges.

Per Curiam.

This matter comes to us on motion of the appellee to dismiss the appeal for lack of jurisdiction. On review appellant has filed an appeal from the order of the district court which remanded the above entitled action to the state court. An order of remand by a district court is not reviewable by this Court unless the action involves a suit under the Civil Rights Act 28 U.S.C. § 1443. Sec 28 U.S.C. 1447 (d). Although appellant alleges in his petition for removal that this suit is brought under th Civil Rights Act, it is apparent that the actual suit removed is a domestic relations matter filed in the Family Court Division of the District Court in Ramsey County, State of Minnesota.

The motion to dismiss is granted.

February 16, 1973.

OPINION AND JUDGMENT

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

73-1037 September Term
Kathleen Joan Strom,
Appellee,
vs.
Theodore Strom, Jr.,
Appellant.

Appeal from the United States District Court for the District of Minnesota.

Petition of appellant for rehearing filed in this cause having been considered, it is now here ordered by this Court that the same be, and it is hereby, denied.

March 1, 1973.